IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

F.A.O. No. 4628 of 2006
Date of Decision: 12.10.2006

United India Insurance Co.Ltd.

..... Appellant.

Versus

Devinder Kumar and another.

..... Respondents

CORAM: Hon'ble Mr.Justice Uma Nath Singh
Hon'ble Mr.Justice Mahesh Grover

....

Present: Shri Gopal Mittal, Advocate for the appellant.

....

Mahesh Grover,J.

The present appeal has been filed by the Insurance Company against award dated 29.7.2006 of Motor Accident Claims Tribunal, Hisar (hereinafter described as `the Tribunal') passed in Claim Petition No.156 of 2002.

Learned counsel for the appellant contended that permission under Section 170 of the Motor Vehicles Act,1988 (for short, `the Act') was granted to the Insurance Company by the Tribunal and, therefore, it had a right to assail the findings recorded in the impugned award as well as other aspects of the matter. His first contention is that the jeep in question was being driven by the tort feasor himself and the policy of insurance as such did not cover the risk of the owner. He further urged that since the claim petition was preferred under Section 163-A of the Act, it was not

maintainable in view of the fact that the income of the injured was more than Rs.10,000/-. Learned counsel contended that the claimant had suffered a permanent disability of 30% and the amount of compensation of Rs.1,00,000/- awarded by the Tribunal to him is also excessive.

We have thoughtfully considered the contentions of the learned counsel and perused the impugned award, as also the copy of the insurance policy which was produced during the course of hearing. A perusal of the insurance policy reveals that an extra premium had been paid to cover the risk of the driver and the vehicle. Concededly, the jeep in question was being driven by some person other than the owner. He was, therefore, covered under the policy of the insurance. Thus, the first contention of the learned counsel deserves to be rejected.

So far as the second contention of the learned counsel is concerned, the same is also without any merit as the claimant-injured had suffered injuries and there is always a tendency to inflate the income at the time of filing of the claim petition. Be that as it may, taking the totality of the circumstances into consideration, i.e., the permanent disability to the tune of 30%; compensation of Rs.1,00,000/- awarded by the Tribunal which cannot be termed as excessive and the fact that Section 163-A of the Act is a piece of beneficial legislation, it would be in the fitness of the things not to interfere with the impugned award.

For the reasons recorded above, the appeal is held to be devoid of any merit and is dismissed as such.

(Uma Nath Singh)
Judge

(Mahesh Grover)
Judge

October 12,2006
"SCM"